IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Appeal from Order No.722 of 2007.

Smt.Rajashree Kailas Bodake
& Anr. ..Appellants

versus

Smt. Padmini M. Nair
& Ors. ..Respondents.

Mr.S.K.Shinde i/b/ Sagar Kasar for the Appellants.

Mr.A.M.Kulkarni for the respondent No.1.

Mr. S.G.Deshmukh for the respondent Nos.2 and 3.

Ms. Shilpa Linge for the respondent No.6.

Coram : S.R.Sathe, J.
Dated : 4th Oct., 2007

P.C.

1. Heard both the learned advocates.

2. Appellants, the original defendants 6 and 7 have preferred this appeal against the Order passed by the learned trial Judge below Exhibit 147, 149 and 151 on 13.8.2007, 16.8.2007 and 20.8.2007 respectively. By Exhibit 147 the defendants had only prayed for change in the date fixed earlier by the Court. Exhibit 149 was also to the same effect and Exhibit 151 was for seeking ex-parte ad-interim injunction or status quo restraining the defendants

1 to 4 from alienating the suit property.

3. On the first two applications, the learned Trial Judge has only called upon the other side to say. Having regard to the fact that some date was already fixed and one party was seeking change in the said date, the court was fully justified in calling the other side to say. No fault can be found with the said order. Similarly, on the application Exhibit 151, on 20.7.2007 the trial Court had only directed that the matter be placed on 27.8.2007 as the matter is already fixed on that date. So, merely because no ex-parte ad interim injunction was granted as prayed immediately the defendant Nos.6 and 7 have approached to this Court. There is no justifiable reason for seeking the said course. Instead the defendants could have requested the trial Court to prepone the matter after giving notice to other side. Admittedly, the said suit was pending since the year 2004 and when the other respondents were already on record, it was certainly not proper to grant ex-parte order. The circumstances had not warranted such order. So, under the circumstances, there is absolutely no necessity to interfere with the above mentioned

three orders passed by the learned Trial Judge.

4. The learned advocate for the respondent Nos.1, 5 and 6 has submitted that the third party interest is already created in respect of the property described in Schedule 3 sub-clause (b) and this fact is also disclosed in the reply filed by the Trial Court. As requested by the learned advocate for appellant_ the concerned respondent is directed to give the details about the said third party to the appellants.

5. In view of the above, the A.O. is dismissed. However, the trial Court is hereby directed to decide the application of the present appellants dated 20.8.2007 on merits within 15 days from today. If the appellant and other respondents desire to file say to the said application, they may file the same within eight days from today.

(S.R.Sathe, J.)